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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT BURNS, Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

IN THE MATTER OF THE APPLICATION)	DOCKET NO. E-01345A-19-0236
OF ARIZONA PUBLIC SERVICE)	
COMPANY FOR A HEARING TO)	
DETERMINE THE FAIR VALUE OF THE)	NOTICE OF FILING TESTIMONY OF
UTILITY PROPERTY OF THE COMPANY)	JONATHAN NEZ, PRESIDENT OF
FOR RATEMAKING PURPOSES, TO FIX A)	THE NAVAJO NATION
JUST AND REASONABLE RATE OF)	
RETURN THEREON, TO APPROVE RATE)	
SCHEDULES DESIGNED TO DEVELOP)	
SUCH RETURN)	

The Navajo Nation hereby provides notice of filing the testimony of President Jonathan Nez of the Navajo Nation in the above-referenced matter.

Dated this 2nd day of October, 2020.

THE NAVAJO NATION



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**PREFILED TESTIMONY OF JONATHAN NEZ,
PRESIDENT OF THE NAVAJO NATION**

October 2, 2020

Table of Contents

I.	INTRODUCTION	4
II.	THE COMMISSION HAS THE AUTHORITY AND AN OBLIGATION TO ESTABLISH A JUST TRANSITION FOR COAL-IMPACTED COMMUNITIES IN THIS RATE CASE	5
III.	THE COAL INDUSTRY HAS BEEN VITAL TO THE NAVAJO NATION AND THE BROADER REGIONAL ECONOMY	6
	B. THE COAL INDUSTRY IS RAPIDLY DISAPPEARING FROM THE FOUR CORNERS REGION	10
	C. COAL IS AN ESSENTIAL SOURCE OF ECONOMIC ACTIVITY AND REVENUE FOR THE NATION	11
IV.	ARIZONA PUBLIC SERVICE COMPANY AND THE COMMISSION HAVE AN IMPORTANT OPPORTUNITY TO SUPPORT A JUST TRANSITION FOR COAL- IMPACTED COMMUNITIES	13
	RECOMMENDATION ONE: ARIZONA PUBLIC SERVICE COMPANY SHOULD COMMIT TO PROVIDING AT LEAST \$193.2 MILLION IN DIRECT INITIAL FINANCIAL TRANSITION AID TO COMMUNITIES WITHIN THE NAVAJO NATION.	14
	RECOMMENDATION TWO: IF NOT IN THIS RATE CASE, THE COMMISSION SHOULD COMMENCE A SEPARATE DOCKET PROCEEDING ON THE JUST TRANSITION	16
	Plant End-of-Life Planning	16
	The Just Transition Council	17
	Examples of Just Transitions for Coal Communities	18
	RECOMMENDATION THREE: THE COMMISSION, APS, AND THE NAVAJO NATION SHOULD WORK TOGETHER TO DEVELOP RENEWABLE ENERGY PROJECTS ON THE NAVAJO NATION ..	19
	RECOMMENDATION FOUR: APS SHOULD SIGNIFICANTLY INCREASE ELECTRIFICATION ASSISTANCE AND INVEST IN LOCAL WATER ACCESS	21
	Electrification Assistance and Distribution Line Siting.....	21
	Water Infrastructure	22
V.	CONCLUSION	23
	APPENDIX A	i

1 **I. Introduction**

2 **Q: Please state your name, title and correspondence address for the record.**

3 A: My name is Jonathan Nez. I am the President of the Navajo Nation. My address is Post
4 Office Box 7440, Window Rock, AZ 86515.

5 **Q: Do you have any testimony to offer in Arizona Public Service Company's ("APS")**
6 **rate case application?**

7 Yes. In Docket E-01345A-16-0036, the Administrative Law Judge, in the Recommended
8 Opinion and Order, stated that, "given recent events surrounding the closure of NGS and SJGS, we
9 believe that it is reasonable to require APS to begin establishing a transition plan for Four Corners
10 and the impacted communities. Accordingly, APS should file as part of its next rate case a proposed
11 initial transition plan for Arizona Corporation Commission (Commission) consideration."¹ As APS
12 failed to do so in this rate case, its Application, if approved, would be deficient—implicating the
13 Commission's core regulatory responsibility.
14

15 The Nation proposes several recommendations for APS and the Commission that, if
16 adopted, would address these deficiencies. These recommendations stem from the Navajo Nation's
17 three principles for a just transition for its community, which are: (1) There should be an
18 established, Commission-regulated process governing Arizona utility coal plant closures; (2) Coal-
19 impacted communities like the Navajo Nation should receive financial and in-kind transition aid
20 from Arizona utilities; and (3) Coal-impacted communities like the Navajo Nation should partner
21 with Arizona utilities and the Commission on local economic diversification efforts. A "just
22 transition" is an emerging concept calling for economic assistance for coal-impacted communities
23 like the Navajo Nation (or the "Nation"), who have for decades powered economic growth in
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¹ Recommended Opinion and Order filed November 27, 2018, pg. 17.

1 Arizona, elsewhere in the Western United States and beyond. The Nation's recommendations are
2 summarized below.

- 3 1. The Application of APS does not include a just transition plan to address the impacts of
4 impending coal plant closures as part of this rate case. APS announced earlier this year,
5 for instance, that the Four Corners Power Plant would shut down earlier than 2031.
6 Accordingly, APS should commit in this rate case to providing at least \$193.2 million in
7 direct financial transition aid to Navajo communities to mitigate the impact of lost coal-
8 related wages and to support local economic diversification efforts.
- 9 2. The Commission should develop rules requiring utilities to provide coal-impacted
10 communities like the Nation advance notice of power plant shutdown decisions and
11 should facilitate the creation of a Just Transition Council.
- 12 3. The Commission, APS and the Navajo Nation should establish a process to promote
13 development of renewable energy projects on the Navajo Nation.
- 14 4. APS should significantly increase electrification assistance and invest in local water
15 access on the Navajo Nation.
- 16 5. Time is of the essence to begin addressing transition issues in this rate case. Without
17 such a transition plan, the Application of APS is deficient.

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21 **II. The Commission Has the Authority and an Obligation to Establish a Just Transition
22 For Coal-Impacted Communities in This Rate Case**

23 **Q: Does the Arizona Corporation Commission have the authority to address just
24 transition-related concerns in utility rate cases?**

25 A: The Commission's unique status as a constitutionally enshrined utility regulatory body
26 provides it with broad authority. The State Constitution empowers and tasks the Commission with
27 the power to "...make reasonable rules, regulations, and orders...and make and enforce reasonable
28

1 rules, regulations, and orders for the convenience, comfort, and safety, and the preservation of the
2 health, of the employees and patrons of such corporations.”²

3 **Q: Does the Commission have an obligation to consider just transition planning when**
4 **regulating utilities?**

5 A: Yes. It is in the public interest and good public policy to plan for the costs and impacts
6 of the increasingly rapid transition away from coal-fired electricity generation, for three reasons.

7 The coal industry has been a vital source of economic activity and revenue for the Navajo
8 Nation and the Four Corners region more broadly. The pending regional economic dislocation is
9 fundamentally tied to APS’s closure of rate-based, community-supporting power plants. The
10 Commission’s obligation to regulate in the public interest compels it to evaluate and respond to the
11 local economic and statewide impact of utility retirement decisions. This issue should be addressed
12 in depth in this rate case because many APS ratepayers across Northeastern Arizona, including
13 those on the Navajo Nation, have already been or are likely to be negatively impacted by
14 accelerated coal power plant closures by APS.

15 Crucially, APS has previously argued that the Commission has a public interest obligation
16 to consider the potential impact that closing Four Corners Power Plant (“FCPP”) will have on the
17 Navajo Nation and the broader regional economy.³

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19
20
21 **III. The Coal Industry Has Been Vital to the Navajo Nation and the Broader Regional**
22 **Economy**

23 **A. APS Invested Heavily in Navajo Coal Generating Capacity**

24 **Q: How has coal resource development on the Navajo Nation impacted Arizona**
25 **utilities and the state’s economy?**

26
27
28 ² Ibid.

³ Arizona Corporation Commission. Decision No. 73130. Docket No. E-01345-A-10-0474. Pg. 8

1 A: Coal development on the Navajo Nation has been an essential component of Arizona's
2 economic growth since World War II. Several powerful stakeholders, including federal and state
3 officials, sought to develop the Navajo Nation's coal resources to provide electricity for booming
4 metropolitan populations across the Southwest and to help promote Navajo economic development.
5 A 1952 Bureau of Reclamation study highlighted how vast coal resources across the Colorado
6 Plateau could be extracted at a low cost to support a burgeoning population across the Southwest.⁴
7 In 1953, Senator Barry Goldwater counseled Arizona Governor Howard Pyle to "unlock" the
8 energy resources on the Navajo Nation to spur local economic development.⁵ Navajo Tribal
9 Council Chairman Paul Jones also pressed for coal development to grow the Nation's revenues and
10 to enhance the Nation's control over its mineral resources and broader economic future throughout
11 his tenure.⁶

12
13
14 APS has long understood the importance of Navajo coal to meeting customer electricity
15 demand and growing the Arizona economy. In 1955, the Stanford Research Institute recommended
16 that APS try to tap into the immense coal reserves on the Navajo Nation to fuel new electric
17 generation resources and hedge against rapidly declining natural gas supplies available from El
18 Paso Natural Gas.⁷ APS developed what became the Four Corners Power Plant as a way to supply
19 growing commercial and industrial activity across Arizona.^{8,9} Indeed, former APS President Walter
20 T. Lucking, in announcing a planned capacity expansion at FCPP in concert with several other
21
22

23 ⁴ Bureau of Reclamation. "A Study of Future Transmission in the West." 1952.

24 ⁵ Iverson, Peter. *Barry Goldwater: Native Arizonan*. University of Oklahoma Press, 1997. EBSCOhost,
search.ebscohost.com/login.aspx?direct=true&db=nlebk&AN=15037&site=ehost-live&scope=site. Pg. 181.

25 ⁶ *For Our Navajo People: Dine Letters, Speeches, and Petitions, 1900-1960*. Ed. Peter Iverson. Pgs. 37-39.

26 ⁷ Andrew Needham. *Power Lines: Phoenix and the Making of the Modern Southwest*. Pg. 90. Citing Stanford Research
Institute's "Study of Future Electrical Generation in the Southwest: Prepared for Arizona Public Service Company."
September 19, 1955.

27 ⁸ "Coal-Power Utility Unit Planned." Los Angeles Times. December 30, 1957.

28 ⁹ FCPP is located on Navajo Nation lands. The sole coal supplier to FCPP is the Navajo Mine, is also located on Navajo
Nation lands and is currently owned by the Navajo Transitional Energy Company LLC, a wholly-owned entity of the
Navajo Nation. The Nation receives millions of dollar annually from the operations of this mine in terms of taxes and
royalties. FCPP is the mine's sole customer.

1 utilities, told reporters that “abundant supplies of low-cost energy will put our state in a more
2 advantageous position...to attract new industries and new payrolls to Arizona.”¹⁰

3 Southwestern utilities, including APS, Salt River Project Agricultural Improvement and
4 Power District (“SRP”) and Tucson Electric Power Company (“Tucson Electric”), partnered with
5 the U.S. Bureau of Reclamation to develop the Navajo Generating Station (“NGS”) on Navajo land
6 to meet growing electricity demand and to power the Central Arizona Project (“CAP”) canal.¹¹ For
7 decades, Navajo coal has been used to move vast quantities of Colorado River water to supply a
8 rapidly growing population across Arizona.¹² CAP now provides water for about 80% of Arizona’s
9 population; it has been instrumental in fueling Arizona’s growth since its inception.¹³ When NGS
10 was retired in 2019, SRP General Manager Mike Hummel noted, “[the plant] - and its employees -
11 are one reason why this region, the state of Arizona and the Phoenix metropolitan area have been
12 able to grow and thrive.”¹⁴

13
14
15 **Q: Please describe the role of Navajo-adjacent coal plants in meeting historical**
16 **Arizona electricity demand.**

17 A: Navajo-adjacent coal plants historically have generated an enormous share of electricity
18 provided to Arizona ratepayers. Arizona utility-owned output from FCPP, NGS, and the San Juan
19 Generating Station (“SJGS”) alone accounted for about one-quarter of all electricity sold in the state
20 between 2000 and 2018—even after accounting for capacity reductions at FCPP and SJGS in 2014
21 and 2017, respectively, and sustained utility load growth.¹⁵

22
23
24 ¹⁰ “4-Corners Expansion Job Let.” Arizona Republic. July 25, 1965.

25 ¹¹ Colorado River Basin Project Act. Public Law 90-537 90th Congress, S. 1004 September 30, 1968.

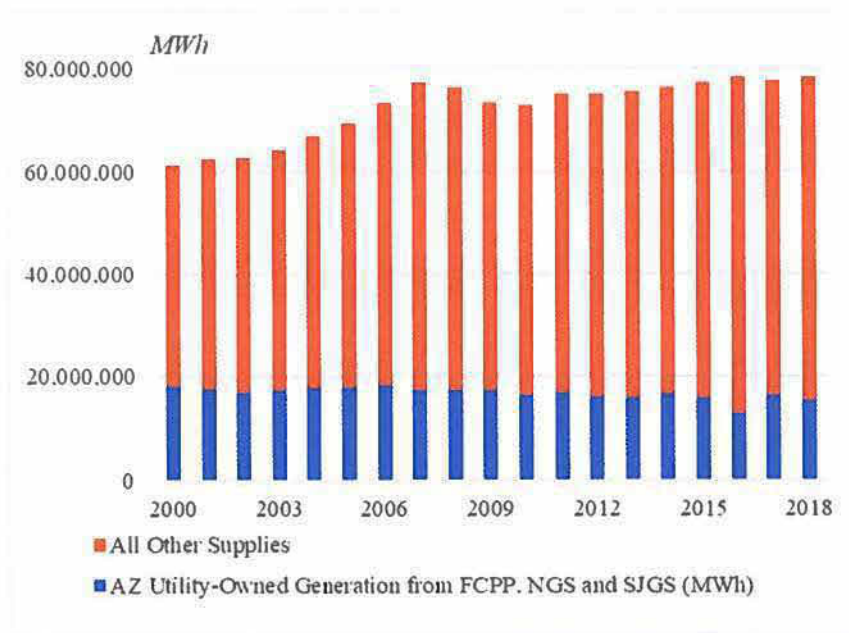
26 ¹² The sole coal supplier to NGS was the Kayenta Mine, which is owned by Peabody Energy. The mine is located on Navajo and Hopi lands and provided both tribes with millions of dollars annual in royalty payments. Because NGS was the mine’s sole customer, the mine shut down in 2019 along with NGS.

27 ¹³ Central Arizona Project. “Background and History.” <https://www.cap-az.com/about-us/background>

28 ¹⁴ Salt River Project. “Navajo Generating Station Permanently Shuts Down.” <https://media.srpnet.com/navajo-generating-station-permanently-shuts-down/>

¹⁵ The SJGS is located adjacent to the Navajo Nation near Farmington, NM. Among other things, SJGS employs a significant number of Navajo employees.

Figure 1: Total Arizona Retail Electricity Sales versus Arizona-Owned Output from FCPP, NGS and SJGS by Year, 2000-2018 (MWh)

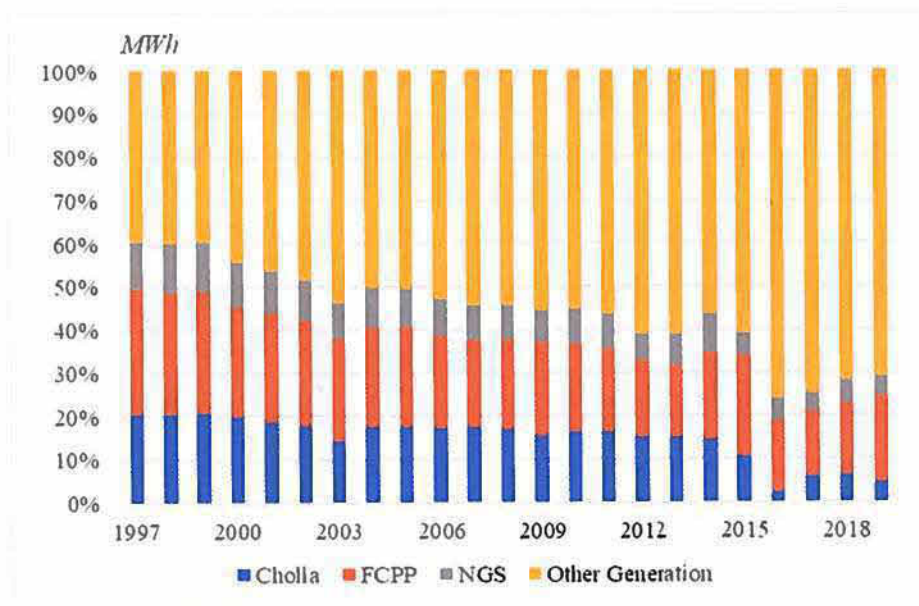


Source: Energy Information Administration Forms 923 and 906, Electric Power Annual

That is even more true for APS. The utility's stakes in FCPP and NGS accounted for an average of 28.2% of the APS's annual retail electricity sales between 2000 and 2019. When one includes the Cholla Power Plant ("Cholla"), the figure is greater than 42%.¹⁶

¹⁶ Cholla is located near the Navajo Nation near Joseph City, AZ. Twenty-three employees at Cholla identify as Native American.

Figure 2: APS-Owned Generation from FCPP, NGS and Cholla Power Plant as a Percentage of Total Annual Retail Electricity Sales, 2000-2019



Source: Energy Information Administration Forms 923 and 906, Electric Power Annual and APS responses to rate case information requests

B. The Coal Industry is Rapidly Disappearing from the Four Corners Region

Q: Are utilities—in Arizona or elsewhere—likely to continue relying on coal-fired generation from plants on or near the Navajo Nation to meet future customer demand?

A: No. These pillars of economic stability on the Navajo Nation and across the Four Corners region are rapidly disappearing. Utilities reduced capacity at FCPP in 2013 and at SJGS in 2017 to comply with air quality regulations and in response to rapidly changing energy economics. NGS closed unexpectedly late last year. Public Service Company of New Mexico (“PNM”) plans to close SJGS by 2022. APS recently announced plans to close FCPP by 2031 instead of by 2038.¹⁷

There is reason to believe APS may retire FCPP before 2031. The utility plans to increase its renewable generation to 45% of total annual sales by 2030 as part of a 65% carbon-free energy goal for the same year. APS’ current generation is about 50% clean. Assuming Palo Verde Nuclear

¹⁷ Sierra Club. “APS Voluntarily Commits to 100% Carbon-Free Energy by 2050, 45% Renewables by 2030. January 22, 2020.

Generating Station will account for about 20% of APS' clean energy output in 2030, the utility's net renewable generation will have to increase by at least 15% within a decade. The influx of low-marginal cost renewable output may significantly erode FCPP's generating economics and prompt its owners, including APS, to further accelerate the plant's retirement.

The Nation also acknowledges that other Arizona utility owned coal-fired power plants are scheduled to shut down years before their previously planned shutdown date. The premature shutdown of these power plants will result in significant negative impacts to Northern Arizona. Collectively, the coal plants and associated mines account for thousands of direct and indirect jobs across the Four Corners region and have contributed more than \$1 billion/year in total regional economic activity.

Figure 3: Originally Planned and Updated Coal Plant Retirement Years

Plant	Original Planned Retirement Year	Updated Retirement Year	Change
Four Corners	2041	2031	-10
Navajo	2044	2019	-25
San Juan	2053	2022	-31
Cholla	2035	2025	-10
Coronado	2035	2032	-3
Escalante	2057	2020	-37

Source: Utility Announcements

C. Coal is an Essential Source of Economic Activity and Revenue for the Nation

Q: How have coal-fired electricity generation and associated coal mining activities impacted the Navajo Nation's economy?

A: The coal industry has for decades been an important source of economic activity for the Navajo Nation, Northeastern Arizona, and Northwestern New Mexico. FCPP, NGS, and the associated mines have become a reliable source of good-paying Navajo jobs and have become bedrock sources of annual revenue for the Nation.

A significant majority of the workers employed at FCPP, NGS and SJGS and the nearby mines are Navajo. These are well-paying jobs with meaningful health and retirement benefits for Nation members, which are scarce on the Navajo Nation. Coal mining and power plant jobs have, for decades, helped support vibrant, multi-generational families and communities across the Navajo Nation. Collectively, the three plants and related mines employed more than 1,500 Navajo workers and were responsible for an estimated 4,300 jobs across northeastern Arizona and northwestern New Mexico—even after generating capacity was reduced at FCPP and SJGS.¹⁸

Figure 4: Total Direct and Indirect Employment at FCPP, NGS and SJGS and Associated Mine Facilities

Complex Name	Direct Employees	Direct Navajo Employees	Estimated Associated Employment	Total Employment
Four Corners Power Plant and Navajo Mine	800	640	1,760	2,560
Navajo Generating Station and Kayenta Mine	700	600	1,600	2,300
San Juan Generating Station and San Juan Mine	550	275	950	1,500
Total	2,050	1,515	4,310	6,360

Source: Albuquerque Journal and Highland Economics

Annual tax, lease and royalty payments from FCPP, NGS and the associated mines have been a major source of income for the Navajo Nation's General Fund. The Nation's General Fund is used to provide medical services, education, housing, and similar essential services, among other things. The tax, lease and royalty revenues accounted for about one-third of the Navajo Nation's General Fund before NGS was closed.

The closure at NGS is already having significant, negative consequences on the Navajo Nation's economy. The scale of that impact is consistent with the estimated result of the partial

¹⁸ Albuquerque Journal. "Coal's decline in power production hits Navajo Nation hard." August 2018. <https://www.abqjournal.com/1210759/coins-decline-in-power-production-hits-navajo-nation-hard.html>

closures at FCPP in 2013 and SJGS in 2017, which reduced northwestern New Mexican economic activity by more than \$200 million/year.¹⁹

Figure 5: Annual Wages and Benefits, Total Employment and Total Annual Economic Activity of Navajo-Related Coal Mines and Coal-Fired Generation

Complex Name	Annual Wages and Benefits (\$MM)	Total Direct and Indirect Employment	Total Annual Economic Activity (\$MM)
Four Corners Power Plant and Navajo Mine	\$98.0	2,560	\$225.0
Navajo Generating Station and Kayenta Mine	\$236.6	2,963	\$517.6
San Juan Generating Station and San Juan Mine	\$105.0	1,500	\$231.0
Cholla Power Plant	\$20.5	485	\$38.0
Coronado Generating Station	\$27.0	627	\$50.0
Total	\$487.1	8,135	\$1,061.6

Source: Navajo Nation calculations²⁰

IV. Arizona Public Service Company and the Commission Have an Important Opportunity to Support a Just Transition for Coal-Impacted Communities

Q: Should Arizona utilities and the Commission support a just transition?

A: Utilities and regulators have an obligation to ensure coal-impacted communities on the Navajo Nation and elsewhere are properly accounted for in plant retirement decisions. The Navajo Nation wholeheartedly supports a just transition for its community and other coal-impacted communities across Arizona and the Southwest. The Navajo Nation proposes three principles for a just transition that align with just transition goals in other states and around the world.

- **There should be an established, Commission-regulated process governing Arizona utility coal plant closures.** The Navajo Nation and other coal-impacted communities must have a long lead time to prepare for power plant and mine closures. Arizona utilities should

¹⁹ Highland Economics. "Regional Economic Assessment & Strategy for the Coal Impacted Four Corners Region."

²⁰ See Appendix A for a detailed breakdown and sourcing of the Nation's estimates in this chart.

1 be obligated to formally report plans to the Navajo Nation and other coal-impacted
2 communities regarding the closure of individual units at a given coal plant or to operate coal
3 units solely on a seasonal basis.

- 4 - **The Navajo Nation and other coal-impacted communities should receive financial and**
5 **in-kind transition aid from Arizona utilities.** Regulated utilities and the Commission
6 should provide financial and in-kind transition aid to coal communities on a sustained basis.
7
- 8 - **The Navajo Nation and other coal-impacted communities should partner with Arizona**
9 **utilities and the Commission on local economic diversification efforts.** The Navajo
10 Nation and other coal-impacted communities should have a say over how transition aid is
11 allocated for economic diversification projects.

12 **Q: Do you have any just transition-related recommendations for the Commission and**
13 **APS?**

14
15 A: The following set of recommendations stem from the Navajo Nation's above three principles
16 for a just transition. The Nation recognizes this is a relatively new consideration for utility
17 regulators and understands that there will be a need for sustained conversations between local
18 communities, APS and the Commission to truly deliver dynamic, resilient, post-coal economies.
19 This rate case is an opportunity for APS and the Commission to begin work on these vital resource
20 planning questions.. Beginning now provides the Navajo Nation with the longest possible glide
21 path to diversify its economies and plan for a post-coal future. Time is also of the essence: The
22 Navajo Nation is already feeling the impact of last year's NGS closure on revenues and local
23 economic activity.
24

25 **Recommendation One: Arizona Public Service Company should commit to providing at least**
26 **\$193.2 million in direct initial financial transition aid to communities within the Navajo**
27 **Nation.**

28 The Nation proposes that the Commission establish an initial transition aid account in APS's
Commission-approved cost of service, setting the size of the account at \$100,000 per megawatt of

1 APS's peak coal capacity ownership in the Navajo-related coal plants (*i.e.* FCPP, NGS and Cholla).
2 By comparison, in New Mexico's Energy Transition Act, lawmakers provided \$40 million in
3 financial assistance to local communities impacted by the planned SJGS closure.²¹ That equates to
4 approximately \$50,000 per megawatt of Public Service Company of New Mexico's peak ownership
5 share in the plant.²² Adding a significant premium to the New Mexico example is justified given
6 Arizona utilities have collectively made much larger investments in Navajo-adjacent coal plants, so
7 the plant closures will have a larger impact on Navajo communities.²³

8
9 Using the \$100,000/MW metric equates to \$193.2 million of liability for direct transition aid
10 funding based on APS' peak ownership share of 970 MW at FCPP, 647 MW at Cholla and 315
11 MW at NGS. This funding is specifically to backfill lost wages and revenues and to provide seed
12 funding for economic diversification programs. Future transition plans and aid would be decided by
13 a newly-created Just Transition Council.²⁴

14
15 The Nation views this as a baseline funding commitment. Others, using slightly different
16 peak ownership assumptions, have assessed APS' financial responsibility at higher levels.²⁵ It is
17 likely that the uncompensated, negative impacts of decades of living near coal plants are far larger
18 than the responsibility assessed in this filing, necessitating additional direct financial assistance
19 from the utility to coal-impacted communities. Nonetheless, Commission approval of a \$192.3
20

21
22
23 ²¹ Western Resource Advocates. "The Energy Transition Act Makes New Mexico a National Leader in Clean Energy."
24 March 7, 2019. <https://westernresourceadvocates.org/blog/the-energy-transition-act-will-make-new-mexico-a-national-leader-in-clean-energy/>

25 ²² Public Service Company of New Mexico. PNM Integrated Resource Plan: 2014-2033. July 2014. Pg. iii
<https://www.pnm.com/documents/396023/396193/PNM+2014+IRP/bdcd52-b0bc-480b-b1d6-cf76c408fdcf>

26 ²³ Many Navajo Nation members are also citizens of the State of Arizona.

27 ²⁴ See Recommendation 2.

28 ²⁵ Institute for Energy Economics and Financial Analysis. "A Coalfield Reinvestment Formula for the Grand Canyon State." March 2020. https://ieefa.org/wp-content/uploads/2020/03/Coalfield-Reinvestment-Formula-for-Arizona_March-2020.pdf. The Navajo Nation's assessment of coal capacity ownership is based on utility-reported *net* capacity figures. IEEFA's analysis appears to be based on reported *gross* plant capacity. Relying on the latter may give an over-inflated estimate of how much electricity a given power plant provides to the grid.

1 million transition aid account in this rate case will allow the Navajo Nation, utility leadership and
2 regulators to begin planning for the transition away from coal in the community.

3 The Nation is cognizant of the need to maintain affordable customer rates and believes
4 transition aid can be structured to provide both significant upfront capital to underpin economic
5 diversification efforts and sustainable, long-term contributions to sustain said efforts over many
6 years.
7

8 The Commission, APS, and relevant stakeholders should also consider securitization as a
9 tool to provide additional transition aid.²⁶ Utility securitization can help limit rate increases
10 associated with accelerating coal plant retirements by raising low-cost capital to pay off the
11 remaining plant balances with ratepayer-backed bonds. A portion of the savings from the
12 securitization transaction can be earmarked for transition aid to coal-impacted communities, as
13 occurred with New Mexico's Energy Transition Act.²⁷
14

15 **Recommendation Two: If Not in This Rate Case, the Commission Should Commence a
16 Separate Docket Proceeding on the Just Transition**

17 The Commission should create notification and plant shutdown rules and facilitate the
18 formation of a Just Transition Council to oversee post-coal economic diversification efforts in this
19 rate case proceeding. Alternatively, the Commission could order APS to provide initial aid to the
20 Navajo Nation and a transition plan containing the recommendations in this testimony, and then
21 initiate a separate docket proceeding to address future planning.

22 **Plant End-of-Life Planning**

23 The Navajo Nation and other coal communities deserve to know how utilities plan to
24 manage the remaining useful life of their power plants and to receive as advanced-as-possible
25 notice about a shutdown decision. Such a decision has occurred before with an eleventh-hour notice
26

27 ²⁶ Alternatively, securitization could also be considered as part of an eventual just transition docket (see
28 Recommendation II) or a generic docket proceeding.

²⁷S.B. 489: The Energy Transition Act. 2019 Regular Session. (New Mexico, 2019).
<https://www.nmlegis.gov/Sessions/19%20Regular/final/SB0489.pdf>. Pgs. 44-45

1 to the Navajo Nation, which resulted in devastating impacts to Navajo workers and communities
2 (e.g., Navajo Generating Station). Accordingly, the Nation proposes the Commission develop a
3 suite of regulations requiring Arizona utilities to provide communities an initial notice of any
4 planned shutdown at least five years before the plant could be retired or as soon as the operator
5 decides to accelerate plant closure: whichever is earlier. Utilities should also pay for economic and
6 social impact studies evaluating how coal plant closures are likely to impact local communities and
7 opportunities for mitigation. Identifying challenges and opportunities ahead of time will help guide
8 the just transition planning process as a plant nears retirement.

10 An initial plant shutdown notification would initiate a series of requirements, including
11 updating economic and social impact studies and holding meetings with affected stakeholders.
12 These requirements will help ensure just transition planning delivers timely, high-impact
13 interventions to support economic diversification and resilience.

15 **The Just Transition Council**

16 The Nation proposes creating a Just Transition Council (“JTC”) to oversee coal plant end-
17 of-life planning and to guide economic diversification efforts beyond this rate case. The JTC should
18 be composed of elected officials from the Navajo Nation primarily given the widespread impact on
19 Navajo communities, and the JTC should include officials from other coal-impacted communities.
20 The JTC should also coordinate with the recently created Just Transition Fund to ensure appropriate
21 allocation of funding to the Navajo Nation and coal-impacted communities. It is vital to ensure all
22 relevant stakeholders would be represented in decisionmaking and would have genuine influence
23 over the future of their communities.

25 APS and the ACC should provide regular technical assistance to the JTC to inform and
26 enhance the Commission’s decision-making processes. The JTC should be responsible for
27 reviewing the sufficiency of utility coal plant end-of-life planning, analyzing impacted
28

1 communities' economic needs, and developing criteria for, and ultimately assessing future
2 proposals to disburse utilities' transition aid funding.

3 **Examples of Just Transitions for Coal Communities**

4 There are many successful examples of JTC-like stakeholder bodies steering just transitions,
5 which demonstrate that the Navajo Nation's just transition proposal is eminently viable. One of the
6 earliest examples of a just transition featured the Mohave Generating Station, which was located in
7 Nevada but was fueled by Navajo and Hopi coal and water via an interstate coal slurry pipeline.²⁸
8 Local community stakeholders from the plant and the coal mine formed the Just Transition
9 Coalition and intervened in Southern California Edison's 2005 general rate case before the
10 California Public Utilities Commission ("CPUC").²⁹ In a landmark decision, the CPUC approved
11 the creation of a revolving credit facility to support renewable capacity development benefitting the
12 Navajo and Hopi which was funded by selling excess sulfur dioxide ("SO₂") emissions trading
13 credits.³⁰
14
15

16 The 2011 agreement between the state of Washington and utility TransAlta to close the
17 coal-fired Centralia (WA) Generating Station in 2025 included \$55 million in transition aid to be
18 disbursed by boards composed of key local stakeholders.³¹ Over the last several years, Washington
19 utility regulators have approved rate case settlement agreements guaranteeing \$13 million in utility
20 transition aid to help the community surrounding the Colstrip Generating Station in neighboring
21
22
23
24

25 ²⁸ Coal and water was supplied by the Black Mesa Mine, which is located on Navajo and Hopi lands near Kayenta, AZ,
and is owned by Peabody Energy. The mine is currently being reclaimed.

26 ²⁹ Alan Ramo & Deborah Behles. *Transitioning a Community Away from Fossil-Fuel Generation to a Green
Economy: An Approach Using State Utility Commission Authority*. 15 MINN. J.L. SCI. & TECH. 505 (2014). Pg. 509.
Available at: <https://scholarship.law.umn.edu/mjlst/vol15/iss1/22>.

27 ³⁰ California Public Utilities Commission. "Decision 13-02-004." Decided February 15, 2013. Pg. 2.
<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M048/K945/48945567.PDF>

28 ³¹ Memorandum of Agreement between the State of Washington and TransAlta Centralia Generation LLC. December
23, 2011. Pgs. 3-7. <https://ecology.wa.gov/DOE/files/85/858591f6-dd25-47be-ba1d-0f58264ca147.pdf>

1 Montana.³² Funding decisions are governed by the Colstrip Community Impact Advisory Group, a
2 group composed of local, statewide and utility stakeholders.³³

3 There have been notable successes elsewhere in the country. More than 1,000 local
4 community members contributed to a post-coal economic development strategy and won tens of
5 millions of dollars of transition assistance funding as part of the Huntley Alliance in New York.³⁴
6 Colorado established the Office of Just Transition to shepherd the state's transition away from coal
7 mining and power generation.³⁵ New Mexico will allocate tens of millions of dollars in local
8 community transition aid as part of the 2019 Energy Transition Act.³⁶

9
10 **Recommendation Three: The Commission, APS, and the Navajo Nation should work together**
11 **to develop renewable energy projects on the Navajo Nation**

12 APS will procure new renewable energy capacity over the coming decades to replace
13 retiring capacity, reduce customer bills, and to meet its clean energy goals. A significant portion of
14 that new capacity can and should be built on the Navajo Nation. The Nation has some of the best
15 wind and solar resources in the Southwest and should have available transmission capacity. The
16 2019 Sunrise Proclamation from President Jonathan Nez and Vice-President Myron Lizer
17 recognizes the vital role of renewable energy development for the Nation's long-term economic
18 vitality.³⁷ Renewable energy development on tribal lands offers employment and revenue
19
20
21

22 ³² Institute for Energy Economics and Financial Analysis. The Case (and the Mechanisms) for Utility-Company
23 Reinvestment in Arizona's Coalfield Communities." February 2020. https://ieefa.org/wp-content/uploads/2020/03/The-Case-for-Utility-Company-Reinvestment_AZ-Coalfield-Communities_March-2020.pdf

24 ³³ COLSTRIP COMMUNITY IMPACT ADVISORY GROUP (CCIAG). CCIAG PLAN. December 11, 2018. Pg. 1.
<http://cciag.mt.gov/Portals/190/Documents/2018%20Final%20CCIAG%20Plan.pdf?ver=2019-01-11-112905-077>

25 ³⁴ E&E News. Thousands of coal workers lost jobs. Where will they go?" June 24, 2020.
<https://www.eenews.net/stories/1063442773>

26 ³⁵ The Denver Post. "Governor's policy director to head office helping workers, communities transition away from
coal." February 19, 2020. <https://www.denverpost.com/2020/02/19/colorado-director-just-transition-coal-workers/>

27 ³⁶ Greentech Media. "New Mexico's 100% Clean Energy Law Praised for Worker Retraining, but Community
Concerns Remain." March 29, 2019. <https://www.greentechmedia.com/articles/read/new-mexico-100-clean-energy-law-community-concerns>

28 ³⁷ Navajo Hayootkaal (Sunrise) Proclamation. April 2, 2019. <https://www.opvp.navajonnsn.gov/Portals/0/Files/PROCLAMATION/Navajo%20Hayoolkaal%20Declaration.pdf>

1 opportunities that support the Nation's economic, social and environmental wellbeing now and into
2 the future.

3 This work should include four phases. First, APS should directly work with the Nation to
4 create a standard request for proposal ("RFP") process for projects sited on the Nation. Project
5 developers should be required to outline how their proposals will benefit the Navajo Nation
6 government and its local communities. APS should explicitly utilize the metric of local economic
7 impact as a key factor to evaluate project bids.
8

9 Second, APS should consider allocating a portion of the capacity on the 345 kV and 500 kV
10 transmission lines that transport electricity from FCPP and Cholla to APS' service territory to the
11 Navajo Nation, and the Nation should not be charged any transmission fees in the future associated
12 with the transmission capacity granted as part of this case. Transmission capacity is a crucial
13 component of being able to deliver renewable electricity to load pockets like Phoenix and Tucson.
14 The Nation's goal to become a leader in renewable energy production could be significantly
15 hampered without access to transmission lines. Additionally, the Navajo Nation has been host to the
16 transmission lines associated with FCPP for many decades, while, as detailed above, not receiving
17 the benefits they offer. The Nation should be afforded access to at least some portion of the
18 available transmission capacity associated with these transmission lines as part of any fair
19 resolution of this case.
20
21

22 Third, the Commission should require Arizona utilities meet a gradually increasing portion
23 of their annual renewable energy generation requirements from facilities sited on the Navajo Nation
24 or benefiting the Navajo Nation. The Nation proposes the requirement rise to 25% of annual utility
25 RPS³⁸ requirements by 2040.
26
27

28 ³⁸ The percentage requirement may be lower if the Commission adopts a Clean Energy Standard. That would allow utilities to generate Clean Energy Credits (CECs) from the Palo Verde nuclear generating station, which runs at a much higher capacity factor than renewable plants and can therefore generate a lot more CECs over time.

1 This requirement would function like a Renewable Portfolio Standard, where utilities
2 generate or purchase Renewable Energy Credits (“RECs”) to comply with statutory and regulatory
3 requirements. Creating a significant, long-term market for energy generated from renewable energy
4 projects sited on the Navajo Nation and in other coal-impacted communities should help reduce
5 financing costs and speed deployments. By creating a market for renewable energy from the Navajo
6 Nation, utilities and the Nation will gain valuable experience, progress through development
7 learning curves, and overcome traditional barriers to clean energy development in rural Arizona,
8 thereby driving down costs and benefitting both ratepayers and coal impacted communities. The
9 Commission’s requirement that Arizona utilities meet a portion of their RPS requirements with
10 RECs generated from distributed energy resources (“DER”) is a good example of the Nation’s
11 proposal in action. RPS carve-outs requiring a certain portion of RECs be sourced from specific
12 renewable energy technologies have been implemented in many other states as well.

13
14
15 **Recommendation Four: APS should significantly increase electrification assistance and invest in local water access**

16 It is a bitter irony that many Navajo have for decades lived next to coal plants delivering
17 power and water to metropolitan Arizona despite not enjoying full access to those critical services
18 themselves. Any utility coal plant retirement plan should address these fundamental injustices.
19 Reliable, affordable electricity and water is fundamental to long-term, sustainable economic
20 development for the Nation.

21
22 **Electrification Assistance and Distribution Line Siting**

23 Electricity access is a vital precondition to sustainable economic development and
24 significantly raises standards of living. The declining cost of off-grid solar and energy storage
25 resources makes it less expensive than ever to improve electricity access on the Navajo Nation.

26 APS specifically should be required to conduct a census of, and to extend electric service to,
27 unelectrified homes, local government buildings and businesses in its western Navajo Nation
28

1 service territory. That effort will likely require updates to the APS' distribution line siting policy to
2 prioritize addressing decades of deprivation for potential Navajo ratepayers, as well as the
3 construction by APS of new distribution lines to connect Navajo homes that do not currently have
4 electric service, and off-grid solar-plus storage systems for those homes that cannot be cost-
5 effectively connected to the grid.
6

7 **Water Infrastructure**

8 Thirty percent of the Navajo people do not have access to running water. A majority of the
9 water systems were constructed by the Navajo Area Indian Health Service through Public Law 86-
10 121 but there remains a need for approximately \$500 million in water infrastructure needs to
11 provide water to Navajo homes. In addition, P.L. 86-121 restrictions do not allow the funds to be
12 used to build water and wastewater systems to support long-term economic development goals. The
13 Navajo Nation has to provide for or find other funding sources to support additional water
14 development. Currently, more than 90 percent of the water demands are met with groundwater. The
15 Navajo Nation needs additional access to renewable surface water supplies from the Colorado River
16 system.
17

18 The lack of water on the Navajo Nation also severely inhibits its ability to pursue alternative
19 economic development strategies, as the Nation does not have the water infrastructure needed to
20 bring businesses onto its lands. APS should work to ensure water from the San Juan River used for
21 FCPP is given to the Nation for use after the plant is decommissioned.
22

23 Additionally, APS should contribute to an infrastructure development fund to finance a
24 water delivery pipeline to LeChee and areas around NGS. The proposed pipeline would allow for a
25 host of economic development activities in the area most impacted by the NGS closure. The Nation
26 estimates the pipeline needs an additional \$38 million to \$55 million to build; APS' contribution
27
28

1 should be proportional to the utility's ownership stake in NGS: \$5.32 to \$7.7 million.³⁹ Another
2 key infrastructure project is the extension of the Navajo-Gallup Water Supply project to Shiprock,
3 NM. There is currently a funding shortage of approximately \$50 million to connect the project to
4 existing water distribution systems. APS' contribution to this particular project would be at least
5 \$7.56 million.
6

7 **V. Conclusion**

8 **Q: Do you have any closing comments?**

9 A: The Nation has been a foundational-but-unacknowledged partner in Arizona's
10 remarkable growth over the last 75 years. The Nation is proud of its Navajo workers at power plants
11 and mines, but understands that the ground is shifting underneath its feet again. APS and the
12 Commission have an obligation to ensure coal-impacted communities across Arizona like the
13 Navajo Nation are properly considered as coal-fired plants are retired and the communities suffer
14 economic harm. Otherwise, leaving the Navajo Nation and other coal-impacted communities behind
15 could undermine the Commission's responsibilities and the State's clean energy goals.
16

17 This is an opportunity to partner with the Navajo Nation and other coal-impacted
18 communities to usher in an era of sustainable, inclusive growth in rural communities across
19 Arizona.
20

21 **Q: Does this conclude your testimony?**

22 A. Yes.
23
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26
27
28

³⁹ 315 MW of 2,250 MW of net generating capacity = 14%

Appendix A

Figure 5 is reproduced below with footnotes indicating the source and/or methodology for the Nation's various employment and economic impact assessments for nearby coal plants.

Complex Name	Annual Wages and Benefits (\$MM)	Total Direct and Indirect Employment	Total Annual Economic Activity (\$MM)
Four Corners Power Plant and Navajo Mine	\$98.0 ⁴⁰	2,560 ⁴¹	\$225.0 ⁴²
Navajo Generating Station and Kayenta Mine	\$236.6 ⁴³	2,963 ⁴⁴	\$517.6 ⁴⁵
San Juan Generating Station and San Juan Mine	\$105.0 ⁴⁶	1,500 ⁴⁷	\$231.0 ⁴⁸
Cholla Power Plant	\$20.5 ⁴⁹	485 ⁵⁰	\$38.0 ⁵¹
Coronado Generating Station	\$27.0 ⁵²	627 ⁵³	\$50.0 ⁵⁴
Total	\$487.1	8,135	\$1,061.6

⁴⁰ Arizona Public Service. "The APS Four Corners Transaction is Good for..." Last Revised December 2013. <https://web.archive.org/web/20160406151940/https://www.aps.com/library/misc/fourcornersNavajo.pdf>

⁴¹ Total economic impact assessment multiplies wages and benefits times 2.2, based on ASU Seidman Institute. "NAVAJO GENERATING STATION & KAYENTA MINE: An Economic Impact Analysis for the Navajo Nation.

⁴² Arizona Public Service. "The APS Four Corners Transaction is Good for..."

⁴³ ASU Seidman Institute. "NAVAJO GENERATING STATION & KAYENTA MINE: An Economic Impact Analysis for the Navajo Nation.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Alicia Corbell. "Impacts: San Juan Generating Station & San Juan Mine."

<https://www.nmlegis.gov/handouts/WNR%20072618%20Item%204%20San%20Juan%20Generating%20Station%20Cl osure%20Impacts.pdf>

⁴⁷ Ibid.

⁴⁸ Total economic impact assessment multiplies wages and benefits times 2.2, based on ASU Seidman Institute.

"NAVAJO GENERATING STATION & KAYENTA MINE: An Economic Impact Analysis for the Navajo Nation.

⁴⁹ Highland Economics. "Regional Economic Assessment & Strategy for Coal-Impacted Navajo and Apache Counties, Arizona."

⁵⁰ Average of high and low economic impact assessments from Highland Economics report.

⁵¹ Ibid.

⁵² Highland Economics. "Regional Economic Assessment & Strategy for Coal-Impacted Navajo and Apache Counties, Arizona."

⁵³ Average of high and low economic impact assessments from Highland Economics report.

⁵⁴ Ibid.

1 CERTIFICATE OF SERVICE

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4 1200 w. Washington Phoenix, AZ 85007

5 COPIES of the foregoing mailed/emailed this 2nd day of October, 2020 to the persons identified on
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